

Understanding COBRA



May 2024

This information is intended only for the use of entities and individuals certified to serve as Navigators, certified application counselors, or non-Navigator personnel in a Federally-facilitated Marketplace. The terms “Federally-facilitated Marketplace” and “FFM,” as used in this document, include FFMs where the state performs plan management functions. Some information in this manual may also be of interest to individuals helping consumers in State-based Marketplaces and State-based Marketplaces using the Federal Platform. This material was produced and disseminated at U.S. tax filer expense.

Learning Objectives

- To understand what Consolidated Omnibus Budget Reconciliation Act (COBRA) Continuation Coverage is, who qualifies for it, and the benefits it provides.
- To understand which employers must offer it.
- To educate consumers on the timelines to sign up for COBRA continuation coverage.
- To educate consumers on what to consider when deciding whether or not to elect COBRA continuation coverage.



What is COBRA?

COBRA:

- Allows employees and their beneficiaries the option to keep group health coverage, after certain qualifying events that would otherwise terminate their eligibility for the coverage, often at the consumer's own cost.



COBRA is a Law, Not a Health Plan

- COBRA requires certain group health plans to provide temporary continuation of group health coverage that otherwise might be terminated.
- Continuation of coverage is only available when coverage would otherwise be lost due to certain specific events.
- Employers decide whether or not they will contribute to their employee's premiums under COBRA. Consumers may be responsible for up to 102 percent (or, in some cases, up to 150 percent) of the cost of the monthly premium for similarly situated individuals who have not incurred a qualifying event.
- The amount COBRA participants contribute to group health coverage is usually more than the amount active employees contribute toward the group coverage.



Who Qualifies for COBRA?

- COBRA contains provisions giving certain qualified beneficiaries – such as former employees, retirees, spouses, former spouses, and dependent children, including children born to or adopted by the employee during the period of COBRA continuation coverage – the right to temporary continuation of group health coverage at group rates.
- If a consumer’s employer is required to comply with COBRA, the consumer is eligible for COBRA continuation coverage after just one day of coverage as an active employee or dependent of an active employee on their group health plan.
- A COBRA “qualifying event” is what triggers a consumer’s ability to exercise their COBRA rights.



How Does COBRA Work?

- COBRA continuation coverage may give consumers the opportunity to purchase temporary extended health care benefits offered by their former employers while they are looking for a new job or during a waiting period for health benefits imposed by their new employer.
- COBRA continuation coverage provides continuity of coverage because consumers generally stay in exactly the same plan they were in when they were employed, with the same network of doctors and hospitals, and the same deductible.
- Consumers may have more affordable or more generous options for health coverage available to them and their family through other group health plan coverage, such as through a spouse's plan; individual health insurance coverage, such as through the Marketplace; and/or certain government programs.



COBRA Qualifying Events

COBRA qualifying events for employees and/or other qualified beneficiaries include:

- Death of the covered employee;
- Voluntary or involuntary loss of eligibility for the group health plan due to:
 - Termination of the covered employee's employment (for any reason other than "gross misconduct"); or
 - Reduction in hours worked by the covered employee (e.g., layoff, strike or lockout, medical leave, or slowdown in business operations);
- Covered employee becomes entitled to Medicare;
- Divorce or legal separation of the spouse from the covered employee; or
- A dependent child reaching the age at which they are no longer eligible for coverage as a dependent of an active employee under the group plan (generally age 26).

How Long Can a Consumer Stay on Their Group Coverage as a Result of Protections Under COBRA? (Slide 1 of 7)

- When consumers elect COBRA continuation coverage due to termination of employment or a reduction of hours, they are generally allowed up to 18 months of COBRA continuation coverage with the group health plan.
- In certain circumstances, consumers may extend COBRA continuation coverage.



How Long Can a Consumer Stay on Their Group Coverage as a Result of Protections Under COBRA? (Slide 2 of 7)

Extensions:

- Medicare eligibility:
 - When the qualifying event is the end of employment or reduction in the covered employee's hours, and the covered employee becomes entitled to Medicare less than 18 months before the qualifying event, the period of COBRA continuation coverage for the covered employee's spouse and dependent children can last for a maximum of 36 months after the date the covered employee became entitled to Medicare.
 - If a consumer has COBRA and is eligible for Medicare, but not enrolled in Medicare, COBRA may only pay a small portion of their medical costs, and they may have to pay most of the costs themselves. They should contact their COBRA plan and ask about their coordination of benefits provisions with Medicare.



How Long Can a Consumer Stay on Their Group Coverage as a Result of Protections Under COBRA? (Slide 3 of 7)

- Medicare eligibility (cont.):
 - If a consumer becomes eligible for Medicare, but chooses COBRA instead of enrolling in Part B, they won't be eligible for a special enrollment period (SEP) and may have to pay a lifetime late enrollment penalty should they decide to pick up Part B at a later date.
 - Deciding if and when you should elect COBRA coverage can be very complicated. When you lose employer coverage and you have Medicare, you need to be aware of your COBRA election period, your Medicare Part B (Medical Insurance) enrollment period, and your Medigap Open Enrollment Period. Each of these periods may have different deadlines, and those deadlines might overlap. You should be aware that what you decide about one coverage type (COBRA, Part B, and Medigap) might cause you to lose rights under another.

Before you elect COBRA, talk with your State Health Insurance Assistance Program (SHIP) about Part B and Medigap.

How Long Can a Consumer Stay on Their Group Coverage as a Result of Protections Under COBRA? (Slide 4 of 7)

Disability:

- If a qualified beneficiary is disabled during the first 60 days of COBRA continuation coverage and meets certain requirements, all of the qualified beneficiaries are entitled to an extension of up to 11 months (or the first day of the month that is more than 30 days after the date of a final determination that the qualified beneficiary is no longer disabled) for a total maximum period of 29 months of continuation coverage.
- The requirements are:
 1. The qualifying event is a termination of employment or a reduction in the covered employee's hours;
 2. That the Social Security Administration (SSA) determines that the disabled qualified beneficiary is disabled before the 60th day of COBRA continuation coverage;
 3. The individual's disability must continue during the rest of the initial 18-month period of COBRA continuation coverage;



How Long Can a Consumer Stay on Their Group Coverage as a Result of Protections Under COBRA?

(Slide 5 of 7)

Disability (cont.):

4. The qualified beneficiary must generally notify the plan administrator about the disability determination within 60 days after the date the disability determination is issued, but in no case later than the end of the 18-month period of continuation coverage that applies to the qualifying event; and
5. The extended period of COBRA ends if there is a final determination under title II or XVI of the Social Security Act that the individual is no longer disabled.
 - For example, if the consumer started COBRA coverage on March 1, 2023, then in order to be eligible for the extension, the Social Security Administration's disability date must indicate that the consumer was disabled on or before April 29, 2023.
 - If the SSA determines that the consumer is no longer disabled, then the COBRA coverage extension may be terminated 30 days after such determination.
 - The plan can charge qualified beneficiaries an increased premium up to 150 percent of the cost of coverage during the 11-month extension of continuation coverage.

How Long Can a Consumer Stay on Their Group Coverage as a Result of Protections Under COBRA?

(Slide 6 of 7)

- Consumers may also extend COBRA continuation coverage longer than the initial 18-month period with a second qualifying event—e.g., divorce or legal separation, death of the covered employee, Medicare entitlement of the covered employee (in certain circumstances), or loss of dependent child status —up to an additional 18 months, for a total of 36 months.
 - The second event is a qualifying event only if it would have caused the consumer to lose coverage under the plan in the absence of the first qualifying event.
 - The consumer is generally responsible for notifying the plan of a second qualifying event.
- For consumers with any qualifying event, COBRA continuation coverage may end earlier if:
 - An individual does not pay premiums on a timely basis;
 - The employer ceases to maintain any group health plan;
 - After the COBRA election, an individual obtains coverage with another group health plan;
 - After the COBRA election, a beneficiary then becomes enrolled in Medicare benefits; or
 - An individual engages in conduct that would justify the plan in terminating coverage of a similarly situated enrollee not receiving continuation coverage (such as fraud).

How Long Can a Consumer Stay on Their Group Coverage as a Result of Protections Under COBRA?

(Slide 7 of 7)

- If a consumer has Medicare coverage (Part A or Part B) that begins before the date that their COBRA becomes effective, COBRA continuation coverage may not be discontinued due to their Medicare enrollment.
 - If they have COBRA and they're eligible for Medicare, COBRA may only pay a small portion of their medical costs, and they may have to pay most of the costs themselves. They should contact their COBRA plan and ask what percent they pay.
- Eligibility for Medicaid, or eligibility for Marketplace coverage does not make consumers ineligible for COBRA.

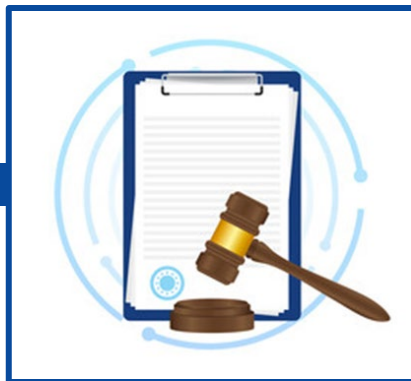


Timelines to Elect COBRA Coverage

- Usually, consumers have until the later of 60 days after losing eligibility for their employer's group health coverage, or 60 days after receiving their COBRA election notice to elect COBRA continuation coverage.
- Consumers have 45 days after election to pay their first month's premium.
- COBRA continuation coverage will generally begin retroactively on the date a consumer's active-employment-based group health coverage ended, as long as the election is made within the allowable election period for COBRA continuation.

Which Employers are Required to Offer COBRA?

- Group health plans sponsored by employers with 20 or more employees are generally required to offer COBRA continuation coverage and to notify their employees of the availability of such coverage.
- COBRA applies to plans maintained by private sector employers and most plans sponsored by state and local governments.



What Benefits Must be Covered by COBRA?

- COBRA continuation coverage must provide identical benefits to those benefits available to similarly situated active employees who are not receiving COBRA continuation coverage under the plan (generally the same coverage that the qualified beneficiary had immediately before qualifying for continuation coverage).
- A change in the benefits under the plan for the active employees will also apply to qualified beneficiaries in COBRA continuation coverage.
- Qualified beneficiaries must be allowed to make the same choices given to non-COBRA beneficiaries under the plan, such as the right during periods of open enrollment to choose among available coverage options.



Knowledge Check #1

A consumer's cost under COBRA will generally not be the same as when they were employed or worked enough hours to be eligible for group health coverage.

TRUE or FALSE?



Knowledge Check #1 Answer

Answer: True

A consumer's costs under COBRA will generally not be the same as when they were employed or worked enough hours to be eligible for group health coverage.

- Employers decide if they'll contribute to the consumer's premium under COBRA. Consumers may be responsible for the entire monthly premium (including amounts that were paid by the employer and the employee) and up to a 2 percent administrative fee, or under certain circumstances up to 150 percent of the cost of the monthly premium.
- This will likely be more expensive than when the consumer was employed. There may be other alternatives to COBRA continuation coverage that would be less expensive.

Can You Change From COBRA to a Health Insurance Marketplace or Other Individual Market Plan?

	If your COBRA is running out	If you're ending COBRA early	If your COBRA costs change because your former employer stops contributing, or you lose a government subsidy (like COBRA premium assistance) and you must pay full cost
During Open Enrollment	Yes, you can change.	Yes, you can change.	Yes, you can change.
Outside Open Enrollment	Yes, you can change – you qualify for a Special Enrollment Period.	No, you can't change until the next Open Enrollment Period (OEP), your COBRA runs out, or you qualify for a Special Enrollment Period another way.	Yes, you can change – you qualify for a Special Enrollment Period.

COBRA Coverage and Eligibility for Marketplace or Other Individual Market Coverage

How can assisters help consumers decide if COBRA is the best option?

- Many individuals and families, particularly those whose employers are not contributing to their COBRA premiums, may have lower-cost options in the Marketplace, other individual market plans, or through their spouse's employer. A dependent losing eligibility for group health coverage may be able to enroll in a different group health plan.
- If consumers are eligible for COBRA continuation coverage but have not made a COBRA continuation coverage selection (i.e., have not yet signed up), they may still qualify for advance payments of the premium tax credit (APTC) or cost-sharing reductions (CSRs) through the Marketplace, if they are otherwise eligible. Additionally, consumers who have made a COBRA continuation coverage selection may qualify for APTC or CSRs so long as they terminate their COBRA continuation coverage by the time their Marketplace plan would start.
- These consumers may be eligible for an SEP to buy a Marketplace plan or other individual market plans if they lost their employer's group health coverage within the last 60 days. Assisters should be prepared to help Marketplace-eligible consumers understand if they are eligible for an SEP.

COBRA Coverage and Medicaid/CHIP

- Medicaid and the Children’s Health Insurance Program (CHIP) are free or low-cost health programs that cover many benefits, including hospitalizations, doctor services, and prescription drugs.
- In all states, Medicaid and CHIP provide health coverage for many low-income families, children, pregnant women, the elderly, and people with disabilities. In some states, Medicaid provides coverage for adults below a certain income level. In other states, individuals may still qualify for Medicaid if they are medically needy, even if their income exceeds the usual qualifying levels. Under the Affordable Care Act, modified adjusted gross income (MAGI) is used to determine most consumers’ financial eligibility for Medicaid and CHIP. Federal law provides additional funding to states to expand their Medicaid programs to cover certain adults younger than 65 with income up to 133 percent (effectively 138 percent) of the federal poverty level (the “adult group”).
- Most Medicaid or CHIP coverage counts as minimum essential coverage (some types of reduced coverage do not count). Consumers who are determined to be eligible for such coverage are no longer eligible for APTC and savings on out-of-pocket costs through the Marketplace.
- Those who qualify for Medicaid can enroll in Medicaid at any time, not just during Open Enrollment. Consumers may apply through [HealthCare.gov](https://www.healthcare.gov) or directly with their state’s Medicaid agency.

To COBRA or Not to COBRA

Things to consider when deciding between COBRA, Marketplace coverage, or other individual market plans:

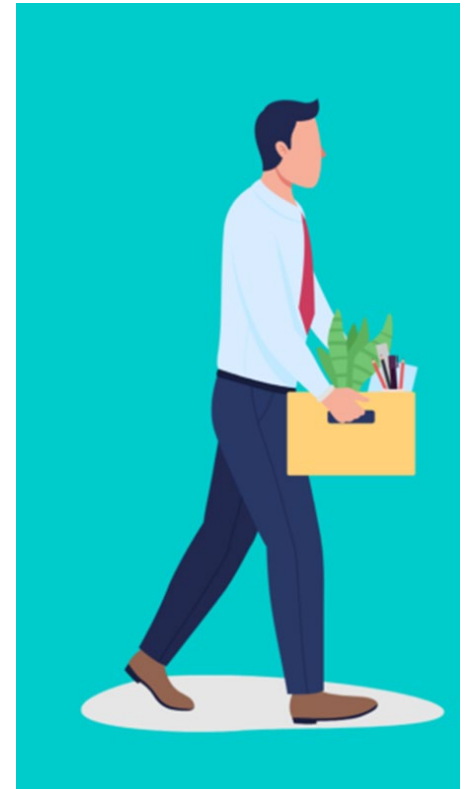
- Continuity of coverage;
- Access to Care: Provider networks;
- Formularies;
- Total Cost: COBRA coverage including premiums, deductibles, and coinsurance;
- Quality of care;
- Potential savings for Marketplace coverage, if eligible, and;
- Comparative benefits.



Complex Case Scenario

Brian is 43 years old, married, and a father to one child.

- On March 16, 2023, Brian lost his job due to the company's reorganization. Brian's employer offered health benefits to its employees and their dependents. Brian's spouse works and earns \$3,650 a month in additional income. His spouse does not have employer-sponsored health coverage.
- Brian and his family were covered by his employer's health plan until March 31, 2023.
- After losing his job, Brian estimates that his total household income in 2023 will be \$70,000 (including severance pay and unemployment benefits).



Complex Case Scenario (Cont.)

To avoid a gap in coverage, what health coverage options are available to Brian and his family once his group health plan coverage ends?

- COBRA continuation coverage;
- Marketplace coverage or other individual market plans; or
- Medicaid or CHIP coverage.



Option: COBRA Coverage (Slide 1 of 3)

- Upon experiencing a qualifying event (e.g., losing his job), Brian and any qualified beneficiaries would typically have 60 days after they receive a notice of continuation coverage to decide whether to elect COBRA continuation coverage.
- Since Brian lost his job on March 16 and his coverage on March 31, he can elect COBRA continuation coverage once he receives a notice of continuation coverage. Once elected, this coverage would begin retroactively on April 1. If Brian chooses to elect COBRA continuation coverage, he has 45 days after making the election to pay the first month's premium.
- In general, COBRA's definition of a "qualified beneficiary" might include a covered employee, their spouse or former spouse, and the covered employee's dependent children who were covered under the health plan on the day before the COBRA qualifying event, as well as children born to or adopted by the employee during the period of COBRA continuation coverage.

Option: COBRA Coverage (Slide 2 of 3)

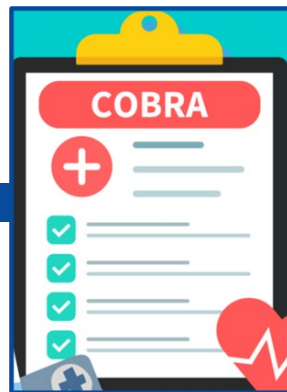
If Brian wants to elect COBRA continuation coverage, he should consider the following:

- COBRA continuation coverage may be more expensive than the typical cost of a group health plan since employers are not required to contribute to COBRA premiums and may charge up to 102 percent of the monthly premium (or in some cases up to 150 percent of the monthly premium).
- COBRA continuation coverage may be a good option to prevent a gap in coverage and for possible continuity of care with existing providers, but it may not be the best long-term option for Brian and his family due to its likely higher costs.
- Brian should also decide if he wants to elect COBRA continuation coverage for his spouse and child who are qualified beneficiaries (i.e., dependents or children), or if these family members may be eligible to enroll in Medicaid, CHIP, or other health coverage.



Option: COBRA Coverage (Slide 3 of 3)

- If Brian voluntarily ends his COBRA continuation coverage outside of the individual market annual Open Enrollment Period (OEP) and more than 60 days after his original loss of employer coverage, he may not be eligible for an SEP to purchase individual market coverage.
- However, he will qualify for an SEP when his COBRA continuation coverage runs out or if his employer stops contributing to his COBRA premiums and he must pay the full cost.



Option: Marketplace Coverage or other Individual Market Plans

Brian has 60 days after losing his group health plan coverage to enroll in Marketplace coverage or another individual market plan through an SEP. (To minimize gaps in coverage, consumers also have 60 days before their loss of coverage to submit an application for Marketplace coverage and enroll in a plan for coverage starting the first of the month after the last day of their employer coverage).

- When consumers decide not to elect COBRA continuation coverage, they may still qualify for APTC or CSRs through the Marketplace, if eligible. Additionally, if a consumer initially elects COBRA continuation coverage, but later decides to end their COBRA coverage, they may still use their loss of minimum essential coverage SEP to enroll in Marketplace coverage until the end of their SEP window, which is 60 days after their loss of pre-COBRA job-based coverage. They may also qualify for APTC if they terminate their COBRA continuation coverage.
- Brian may be eligible for APTC based on his family size and his total estimated annual income.
- For more information about enhanced APTC benefits under the American Rescue Plan Act of 2021 and the Inflation Reduction Act visit: [HealthCare.gov: More Savings](https://www.healthcare.gov/more-savings/).

Option: Medicaid Coverage

Even though Brian's state (Arizona) has expanded Medicaid, he is not eligible for Medicaid based on his household income.



Review of Options for Brian

Brian has a few options to avoid a gap in coverage and continue his health coverage after he loses his job:

1. He can elect COBRA continuation coverage and will have to pay for the entire premium himself.
2. He can choose to decline COBRA continuation coverage and instead enroll in a Marketplace plan now with APTC if he otherwise qualifies or enroll in an individual market plan off the Marketplace without APTC.



Resources

- [COBRA Coverage & the Marketplace](#)
- [COBRA Continuation Coverage Questions and Answers](#)
- [FAQs on COBRA Continuation Health Coverage for Workers](#)
- [CMS Waivers, Flexibilities, and the End of the COVID-19 Public Health Emergency](#)
- [Important Facts: COBRA coverage and Medicare](#)